

PATENT
Attorney's Docket No. COS01007

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:) **Mail Stop AF**
Shawn WIEDERIN)
Application No.: 09/950,025) Group Art Unit: 3694
Filed: September 12, 2001)
For: SYSTEMS AND METHODS FOR)
MONETARY TRANSACTIONS)
BETWEEN WIRED AND WIRELESS)
DEVICES)

PRE-APPEAL BRIEF REQUEST FOR REVIEW

U.S. Patent and Trademark Office
Customer Window, Mail Stop AF
Randolph Building
401 Dulany Street
Alexandria, Virginia 22314

Sir:

Applicant respectfully requests review of the final Office Action, dated August 19, 2008, in view of the remarks below and in conjunction with the Notice of Appeal filed concurrently with this request. Claims 2-6, 8, 9, 12-16, 18, 19, 22-26, 28, 29, 32-36, 38, 39, and 41-45 are pending in this application.

The final Office Action rejects claims 12-16, 18, 19, 22-26, 28, 29, 43, and 44 under 35 U.S.C. § 102(e) as allegedly anticipated by SACKS (U.S. Patent Application Publication No. 2002/0016765); and rejects 2-6, 8, 9, 32-36, 38, 39, 41, 42, and 45 under 35 U.S.C. § 103(a) as allegedly unpatentable over SACKS in view of the Examiner's Official Notice, and further in view of KIM et al. (U.S. Patent Application Publication

No. 2005/0086164). Applicant respectfully requests review of the final rejection due to factual deficiencies in the outstanding rejections.

Rejection under 35 U.S.C. § 102(e) based on SACKS

The rejection of claims 12-16, 18, 19, 22-26, 28, 29, 43, and 44 contains factual deficiencies with respect to the alleged teachings of SACKS.

As to independent claim 43, SACKS does not disclose or suggest, for example, receiving payee identification information, user information, and amount information from a wireless device associated with a user (see, for example, Applicant's arguments at pages 2-7 of the Request for Reconsideration, filed October 17, 2008).

The Advisory Action, dated October 28, 2008, merely indicates that Applicant's arguments are not persuasive.

Due to the factual deficiencies in the disclosure of SACKS set forth herein and in the Request for Reconsideration, Applicant respectfully requests that the rejection of claim 43 as anticipated by SACKS be reconsidered and withdrawn.

Claims 12-16, 18, and 19 are not anticipated by SACKS based on their dependency from claim 43.

Independent claim 44 recites features similar to (yet possibly of different scope than) features described above with respect to claim 43. Therefore, Applicant respectfully requests that the rejection of claim 44 as anticipated by SACKS be reconsidered and withdrawn for at least reasons similar to reasons given above with respect to claim 43.

Claims 22-26, 28, and 29 are not anticipated by SACKS based on their dependency from claim 44.

Rejection under 35 U.S.C. § 103(a) based on SACKS, the Examiner's Official Notice, and KIM et al.

The rejection of claims 2-6, 8, 9, 32-36, 38, 39, 41, 42, and 45 contains factual deficiencies with respect to the alleged teachings of SACKS, the Examiner's Official Notice, and KIM et al.

As to independent claim 42, SACKS, the Examiner's Official Notice, and KIM et al., whether taken alone or in any reasonable combination, do not disclose or suggest, for

example, a payment processing system configured to receive payee identification information, user information, and amount information from a wireless device associated with the user, where the user information further includes information identifying the wireless device (see, for example, Applicant's arguments at pages 8-9 of the Request for Reconsideration, filed October 17, 2008).

Further with respect to claim 42, SACKS, the Examiner's Official Notice, and KIM et al., whether taken alone or in any reasonable combination, do not disclose or suggest, for example, that the payment processor is configured to identify a first account associated with the user based on the user information including the received wireless device identification information (see, for example, Applicant's arguments at pages 9-10 of the Request for Reconsideration, filed October 17, 2008).

Due to the factual deficiencies in the disclosures of SACKS, the Examiner's Official Notice, and KIM et al. set forth herein and in the Request for Reconsideration, Applicant respectfully requests that the rejection of claim 42 as unpatentable over SACKS, the Examiner's Official Notice, and KIM et al. be reconsidered and withdrawn.

Claims 2-6, 8, and 9 are patentable over SACKS, the Examiner's Official Notice, and KIM et al., whether taken alone or in any reasonable combination, based on their dependency from claim 42.

Independent claim 45 recites features similar to (yet possibly of different scope than) features described above with respect to claim 42. Therefore, Applicant respectfully requests that the rejection of claim 45 as unpatentable over SACKS, the Examiner's Official Notice, and KIM et al. be reconsidered and withdrawn for at least reasons similar to reasons given above with respect to claim 42.

Claims 32-36, 38, 39, and 41 are patentable over SACKS, the Examiner's Official Notice, and KIM et al., whether taken alone or in any reasonable combination, based on their dependency from claim 45.

Conclusion

In view of the foregoing remarks and the remarks presented in the Request for Reconsideration, Applicant submits that clear factual deficiencies exist with respect to

the rejections of claims 2-6, 8, 9, 12-16, 18, 19, 22-26, 28, 29, 32-36, 38, 39, and 41-45. Therefore, Applicant respectfully requests withdrawal of the outstanding rejections and the timely allowance of this application.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 50-1070 and please credit any excess fees to such deposit account.

Respectfully submitted,

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